

**ARKANSAS PUBLIC SERVICE COMMISSION**

IN THE MATTER OF AN INVESTIGATION ) DOCKET NO. 16-028-U  
OF POLICIES RELATED TO DISTRIBUTED ) ORDER NO. 5  
ENERGY RESOURCES )

**ORDER**

By Order No. 8 issued on October 30, 2017, in Docket No. 16-060-U (Entergy Arkansas, Inc.'s (EAI) Advanced Metering Infrastructure (AMI) docket), the Arkansas Public Service Commission (Commission) declared its intention to, by separate Order, expand this Docket, as recommended by the Office of Attorney General Leslie Rutledge (the AG) and EAI,<sup>1</sup> to explore Distributed Energy Resources (DERs)<sup>2</sup> and data access issues as well as questions that touch on matters that may affect other utilities, customer groups, and third parties that may have an interest in accessing customer data and integrating DER into the electric grid. The Commission noted that EAI's AMI docket remains open and pending with respect to a number of plans and tariffs yet to be collaboratively discussed and ruled upon by the Commission pursuant to the Settlement Agreement agreed to by EAI, the AG, and the General Staff (Staff) of the Commission (the Settling Parties). As a consequence, the Commission found it appropriate for the future actions of the Settling Parties in Docket No. 16-060-U to include the collaborative consideration of certain supplemental questions posed by the Commission by Order No. 5 in that docket concerning access by third parties to AMI data. Order No. 8 in Docket No. 16-060-U at 113-14.

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<sup>1</sup> Direct Testimony of AG witness Curt Volkmann at 20-21 in Docket No. 16-028-U, and EAI Initial Comments and Responses to Commission's Questions at 21-22 in Docket No. 16-028-U.

<sup>2</sup> The Commission considers DERs to include (but not be limited to) energy efficiency resources (EE), demand response (DR), smart thermostats, renewable resources and distributed generation (DG), including solar and wind technologies, storage technologies, including batteries and water heaters, and electric vehicles (EVs), all of which may be enabled, enhanced, and integrated into the grid by implementation of AMI.

Given the Settling Parties' clear commitment to finding ways of maximizing the benefits of AMI as deployment begins on the EAI system in 2018, the Commission described the collaborative work of the Settling Parties to be conducted over the next 180 days in Docket No. 16-060-U as a launchpad for the concurrent discussion and consideration of these DER issues in this generic Docket. The Commission noted that concurrent consideration may entail parallel filings both in this Docket and Docket No. 16-060-U. The Commission further stated that because of the expansion of the issues in this Docket, a new deadline will be established to consider additional petitions for intervention by parties not already participating in this Docket and that the reports and recommendations of the Settling Parties in Docket No. 16-060-U over the next half-year will be used to inform this generic proceeding, which will collaboratively develop comprehensive recommendations regarding the provision of customer data to third parties, integration of DERs into the grid, and demand aggregation by third parties. *Id.* at 114. A procedural schedule for the consideration of these issues and comment by parties comprising the DER Collaborative in this generic Docket will be established following the close of the intervention period.

Accordingly, by this Order the Commission amends the style of this Docket to substitute "Distributed Energy Resources" for "Renewable Distributed Generation." The Commission further expands the subject matter of this Docket to broadly collect information to consider whether any change is warranted in the Commission's policies related to DERs.

For purposes of informing potential intervenors of the scope of this docket, following the close of the intervention period and the establishment of a procedural

schedule, the Commission will request the parties to this expanded Docket to engage in collaborative consideration, led by Staff, to:

1. Describe the public policy goals that may be furthered by third-party aggregation and sharing of data with third parties and that may offer value and maximize the benefits of AMI to ratepayers, including consideration and the making of recommendations regarding the possible benefits to the public interest of Commission action pursuant to the “Regulation of Electric Demand Response Act of 2013,” Ark. Code Ann. § 23-18-1001 *et seq.*, which allows the marketing, selling, or marketing and selling of demand response, as defined in subsection 23-18-1002(2)(A) and (B), by electric public utilities or aggregators of retail customers to retail customers or by electric public utilities, aggregators of retail customers, or retail customers into wholesale electricity markets, as provided in Ark. Code Ann. § 23-18-1003(b)(1).
2. Comment on the following questions posed by the Commission in Order No. 5 of Docket No. 16-060-U:
  - a. To what extent should data produced by Automated Metering Infrastructure (AMI) that does not contain personal information be made available to business entities, academic institutions, and non-profit entities for research, development of policy, and identification of business opportunities?
  - b. To what extent should data produced by AMI that does contain personal information be made available, subject to reasonable privacy protection, to

persons and business entities who want to engage customers in order to provide AMI benefits?

- c. If entities other than the public utility collecting AMI data are permitted to use such data to engage customers to provide AMI benefits, what education and reporting metrics should be designed to monitor the utility's AMI implementation and the benefits associated therewith?
3. Describe steps that may be taken to ensure that AMI functionalities that enable or enhance EE and DR measures and programs do not result in duplicative expenditures or investments and double counting of costs and benefits of existing or future EE and DR programs offered by the utility.
4. Identify the types of potential costs and revenue-producing aspects of providing AMI data to third parties.
5. Describe the type and number of data points currently collected per customer by existing meters, as compared with what will be produced by AMI; how that data is expressed in metrics (both currently and post-AMI); and how that data is currently and will be used post-AMI. Explain how such information can be used to more effectively regulate consumer privacy; how it will benefit ratepayers; and how it will impact modeling commonly used in the utility industry to accurately predict load and energy consumption and growth, provide beneficial customer applications, and provide non-wires alternatives that will help the utility avoid overbuilding of generation, transmission, and distribution infrastructure.
6. Assess the abilities and potential benefits and costs to utilities with AMI to identify targets of opportunity for DERs through the identification of electric

circuits that can accommodate renewable generation such as rooftop solar and other DERs and to gain visibility into circuits that may present distribution and transmission constraints.

7. Assess the ability of AMI to enable utilities or third parties to disaggregate customer electric consumption and demand by appliance or device in order to identify and rectify defects or target inefficiencies through EE or DR programs.
8. Identify and distinguish the types of benefits and costs that may be generated by DERs for utility customers that participate in measures and programs and for customers that are not participants. In other words, describe potential rate and bill impacts for participants and non-participants and identify and distinguish between individual customer benefits to participants and system benefits to all customers produced by AMI and DERs.
9. For utilities that have already installed and implemented AMI, consider and make recommendations concerning the timing and applicability of rules for third parties to participate in a DER market.
10. Identify and propose solutions to issues presented by the prospect of providing data access to third parties, including privacy protection, cyber-security, and managing and recovering costs of providing such data.
11. Ascertain and make recommendations regarding whether collaborative activities would benefit from the engagement of expert consultants and/or an Independent Monitor to evaluate AMI deployment, implementation, and functionalities, data access issues, and cyber-security and privacy issues.

12. Distinguish between individualized data, aggregated data, and de-identified data and describe the process for responding to and the rules of engagement with third parties and customers, given statutory, regulatory, or utility policy provisions governing confidentiality of customer information.
13. Identify customer privacy, confidentiality, and marketing pressure concerns with the various ways in which AMI data may be used by third parties and suggest remedies for such concerns.
14. Study and make recommendations whether there are certain purposes for which AMI data may not be requested or used or whether there are certain types of entities that should be restricted from having such access. In particular, consider whether there should be a standard, written data release agreement that clearly defines the entity receiving the data, the purpose(s) for which the data is to be used, and terms for payment of any costs associated with producing the data.
15. Study and make recommendations whether providing data to third parties in various formats may require investment in software and systems that the utility may not necessarily own today, including how to address recovery of any costs associated with deploying software and systems needed to facilitate providing data to third parties, direct assignment of any expenses associated with assimilating and transmitting such data, and whether third parties should directly bear responsibility for such costs.
16. Explain and make recommendations regarding the Green Button program (and/or an alternative similar capability) allowing consumers to download their energy usage information easily and in a standardized format that can be

provided to third parties with whom customers may want to engage. Distinguish between data owned by the utility and that owned by the customer.

17. Consider and make recommendations whether there should be changes to the Commission's Rules to effectuate the provision of confidential information from an electric utility to a third party and, if so, develop a recommended protocol to share data.
18. Identify types of currently non-quantified functionalities and DERs (Time-of-Use (TOU) rates, EE, DR, DG, EVs, solar and other renewables, and storage, etc.) that can be enabled or enhanced by AMI and discuss, with reasons, which if any might be better offered by the utility and which by third parties. Identify competitive concerns that may arise with utility offerings and suggest remedies, including possible changes to utility corporate structure and codes of conduct. Identify potential stranded cost risks.
19. Explore and make recommendations regarding Commission implementation of new statutory authority granted by Act 1102 of 2017 (Ark. Code Ann. § 23-2-304(a)(11)) to develop financial assistance programs for elderly and low-income customers, and recommend ways of avoiding disproportionate impacts on such customers and ensuring the fairness of employing AMI to increase access to DERs across all customer classes, including the possibility of using a pre-pay billing program under AMI to beneficially target such customers.

Commission Findings and Rulings

Accordingly, the Commission directs that:

1. Additional petitions to intervene in this Docket shall be filed no later than noon on January 12, 2018.
2. Further procedural filings, including the commencement of timelines for the filing of comments and testimony, will be addressed by subsequent orders after the intervention period has ended.

BY ORDER OF THE COMMISSION.

This 9<sup>th</sup> day of November, 2017.

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or

Electronic mail using the email address of each party as indicated in the official docket file.

Ted J. Thomas, Chairman

Elana C. Wills, Commissioner

Kimberly A. O'Guinn, Commissioner

Mary Loos, Secretary of the Commission